

**STATE BOARD OF EQUALIZATION**  
**BEFORE THE ADMINISTRATIVE JUDGE**

IN RE:	John T. Nixon	)	
	Map 59P; Control Map 59P; Parcel 016.00	)	Rutherford County
	Residential Property	)	
	Tax Year 2006	)	

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$25,000	\$130,300	\$155,300	\$38,825

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on July 25, 2006.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on December 7, 2006, at the Rutherford County Property Assessor's Office. Present at the hearing were John T. Nixon, the taxpayer who represented himself and John Barbee, Rutherford County Assessor of Property; Russell Key, Assessor's Office Staff Appraiser; Jerry Davenport, Chief Deputy Assessor, Jason Jones and Ed Deslotte also Residential Appraisers for the County.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a single family residence located at 452 Compton Road in Murfreesboro, Tennessee.

The taxpayer, Mr. Nixon, a real estate agent, contends that the property is worth \$135,507 based on the price per square foot, he states that he purchased the property in February of 2005 for \$125,000. Mr. Nixon states that the county has the used comparables of properties that have a higher value than his. Mr. Nixon stated he used the Residential Property Comparative Market Analysis for properties in the Compton Road that sold in 2005.<sup>1</sup>

Mr. Key from the Assessor's Office contends that the subject property should be valued at \$159,100. In support of this position; Mr. Key used both the cost approach and the comparable sales approach to ascertain market value used in the county's presentation. In the sales approach three comparable sales were introduced and are marked as collective exhibit number 1. Mr. Key used comparable sales data and made appropriate adjustments for lot size, square footage and number of rooms. In the cost

<sup>1</sup> . This information is contained in his exhibit, for the record it is Taxpayer's exhibit #1-Comparative Market Analysis.



approach Mr. Key used data from Marshall & Swift to show the home's construction cost, which is an acceptable approach to the determination of market value. Mr. Nixon countered by stating that the properties used in city's comparisons are located in a better area, he also disagrees that the quality of his home should be classified as "Average plus" which believes incorrectly increases the value of his property.

In making his argument Mr. Nixon continues to talk about price per square foot rather than taking comparable prices with related properties and adjusting them to the subject property.

The germane issue is the value of the property as of January 1, 2006. The basis of valuation as stated in T.C.A. § 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . . ."

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$155,300 based upon the presumption of correctness attaching to the decision of the Rutherford County Board of Equalization. The presentation by Mr. Key shows that the values affixed by the County Board are supported by the analysis of other properties in the area.<sup>2</sup>

Since the taxpayer is appealing from the determination of the Rutherford County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn. App. 1981).

With respect to the issue of market value, the administrative judge finds that Mr. Nixon simply introduced insufficient competent evidence to affirmatively establish the market value of subject property as of January 1, 2006, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

There are three (3) acceptable approaches in determining the market value of real property; the income approach (usually reserved for income producing property); the cost approach (using acceptable tables of reference such as Marshall and Swift cost tables for determining construction cost), and the most favorable for residential property, the sales comparison approach (comparing the sales of properties that are adjusted on a comparable analysis basis to the subject property). In this case Mr. Nixon's exhibit<sup>3</sup> was a CMAR Report that according to the document is from 2006 Real Tracs Solutions.<sup>4</sup>

<sup>2</sup> While Mr. Keys' data shows that the home could be valued higher the County is not seeking an increase in value.

<sup>3</sup> Taxpayer's exhibit #1 for the record is attached to Mr. Nixon's appeal application.

<sup>4</sup> The administrative judge is unsure as to the origins of the data but notes that the document contains a disclaimer which puts the reliability on the data as suspect.



The administrative judge finds that **rather than averaging comparable sales, comparables must be adjusted.** As explained by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is **presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value.** . . . (emphasis supplied) Final Decision and Order at 2.

In analyzing the arguments of the taxpayer, the administrative judge must also look to the applicable and acceptable standards in the industry when “comparing” the sales of “similar” properties as the taxpayer did here.

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm’s-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then **adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable.** This step typically involves using the most comparable sale properties and then adjusting for any remaining differences. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values. [Emphasis supplied] Appraisal Institute, *The Appraisal of Real Estate* at 422 (12<sup>th</sup> ed. 2001). *Andrew B. & Majorie S. Kjellin*, (Shelby County, 2005)

Mr. Nixon did not meet his burden in this case.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:



<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$25,000	\$130,300	\$155,300	\$38,825

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

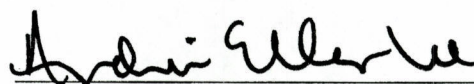
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 12<sup>th</sup> day of January, 2007.

  
 ANDREI ELLEN LEE  
 ADMINISTRATIVE JUDGE  
 TENNESSEE DEPARTMENT OF STATE  
 ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. John T. Nixon  
 John Barbee, Assessor of Property